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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,522	01/27/2004	Christopher Todd Cross	CRO.01	2212
25871	7590	02/28/2006	EXAMINER	
SWANSON & BRATSCHUN L.L.C. 1745 SHEA CENTER DRIVE SUITE 330 HIGHLANDS RANCH, CO 80129			JOERGER, KAITLIN S	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/766,522	CROSS, CHRISTOPHER TODD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kaitlin S. Joerger	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 January 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "each support leg" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim. Line 1 only claimed a single support leg, there is insufficient antecedent basis for the claiming of plural support legs.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3,7878,040 (Allen).

Allen teaches a sheet material handling system comprising: at least one support member, 11, having a substantially vertical support leg, 12, extending from a horizontal base; a planar working surface, 10, connected to each support leg by a hinged connection, 13, which allows pivoting of the planar working surface with respect to the support leg; and a latching member,

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75, operatively associated with the base configuration to lock the pivoting of the planar working surface in a select position.

The hinged connection further comprises: a first tubular member attached to the support leg; second tubular member attached to the planar working surface and positioned in line with each first tubular members; and a shaft running through the first and second tubular members connecting them such that the second tubular members are free to pivot around the pivot axis, see figure 1.

The system further comprises a horizontal base and at least one wheel operatively associated with the base, see column 2, lines 28+.

The planar work surface comprises a substantially rigid support layer and a softer cutting surface layer, see column 2, lines 45+.

The latching member comprises: a bar having first and second ends pivotally attached at the first end to a base and the second end being configured to align with a bracket on the underside of the planar work surface; and a means for releasably attaching the second end of the bar to the bracket, see column 3, lines 41+ and column 4, lines 12+.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,787,040 (Allen) in view of US Patent 3,458,056 (Stefan et al.)

The '040 patent teaches all of the features of the claimed invention including wheels operatively associated with the base. However, the wheels of the '040 patent are not taught to include means for selectively positioning the wheel above and below the base.

The '056 patent teaches a material handling device that include a base with wheels. The wheels of the '056 patent include a means for selectively positioning the wheels above and below the base, see column 3, lines 30+.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the positioning means of the '056 patent with the wheels of the '040 patent in order to enable the wheels to be retracted so that when the work surface was being used the system would be firmly planted on the floor, resting on the base, and would be immovable.

#### *Allowable Subject Matter*

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The '040 patent is considered to be the most relevant prior art, and while the patent does teach a hinge portion with a shaft, it does not teach that the shaft is removable. It is well known that hinges are separable, however, the examiner could find no motivation, without relying on

improper hindsight, to separate the hinge of the '040 patent to allow the work surface to be separated from the support.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on the Notice of References Cited form that are not relied upon all teach sheet material handling systems that have pivotable working surfaces and are movable with wheels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaitlin S. Joerger whose telephone number is 571-272-6938. The examiner can normally be reached on Monday - Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

  
17 February 2006